

Remarks

We have reworded the subject matter of method claim 1 to better explain the differences between the present invention and the teaching of Lynn. Also, we include a pure product claim, due to the recent experiences with infringers in Germany.

The presently pending dependent claims follow accordingly.

As to the method claim:

1. On page 2, lines 1-2, of the Office Action the Examiner objects that no amounts of the constituents were claimed in claim 1 and therefore, it would have been obvious to add an acid to a product as shown by the reference to Lynn.

Therefore, we have introduced the amounts of the constituents of the edible product to be produced, i.e.

comminuted shelled seeds or nuts

the first liquid

oil or liquefied fat

the acidic second liquid or an acidulant.

The amounts of the first three constituents are given by way of the cited ratios and the minimum amount of acidic liquid or acidulant is clearly defined by the pH value of < 5 to be obtained.

If one would mix seeds or nuts, the first liquid and oil or liquefied fat, this would result in a rather liquid emulsion, if not being acidified.

However, the present inventor has found that this specific emulsion can be brought to a considerably firmer consistency by acidifying to at least a pH value of < 5.

It was a very surprising result that acidifying to a pH value of < 5 of this specific emulsion of the given amounts of constituents obtains a consistency which is firm enough to be used directly after pasteurizing as viscous edible product having a consistency similar to curd cheese or fresh cheese.

2. Furthermore, the examiner requests to add something to the claims to say that it is most likely an uncooked product.

Lynn does not describe a product which is merely cooked, but a base material to replace a dough to be finally baked (see column 1, lines 21-23).

Therefore, we have clarified claim 1 by adding the feature that the base substance is pasteurized, yielding said viscous edible product. Therewith, the difference to the baked product of Lynn is clarified because it would be absolutely senseless to pasteurize Lynn's dough before baking.

Lynn describes simmering of its base material at approximately 300° to 350° F (column 4, lines 18-20). This, however, is not pasteurizing.

Furthermore, even in one would hypothetically try to bake the substance according to the present invention, within the claimed ratios no cracker or cereal could be produced.

Consequently, starting from the teaching of Lynn, no amendment of Lynn's teaching can be seen which would obviously lead someone skilled in the art to the presently claimed method for producing a pasteurized viscous edible product. Therefore, it is respectfully submitted that the independent method claim as attached, defines novel and non-obvious subject matter.

As to the product claim:

The same arguments as discussed for the method also apply for the viscous edible product as claimed by the attached claim 20.

To even further clarify the differences between the presently claimed viscous product, claim 20 clearly states that the consistency of the product is similar to curd cheese or fresh cheese. This is definitely different from Lynn's products, namely crackers or cereals. It should be mentioned that Lynn's simmered base material also is not disclosed as having such consistency.

Therefore, it is respectfully submitted that the independent product claim as attached defines novel and non-obvious subject matter.

Further comments:

We do not understand that the Examiner rejects claim 20 as presently pending, as this is based on claim 11 as originally filed, which was already considered to be allowable by the Examiner with the Office Action mailed May 26, 2003.

Furthermore, we have included a feature explicitly defining that our product is "unbaked". We prefer the wording "unbaked" instead of "uncooked" as used by the Examiner. This is because our product is pasteurized, and we would like to avoid any misunderstanding between "uncooked" and pasteurized".

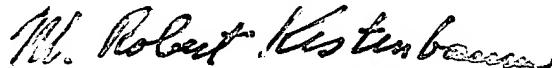
Please note that we intend to protect a viscous edible product of a consistency similar to curd cheese or fresh cheese that is a vegetarian spread filled in glasses, e.g. to be put on bread, and the respective production method.

We have enclosed an internet printout of the product, called "iBi". You may see further details under www.lebegesund.de, in German.

A three-month extension of time in which to respond to the outstanding Office Action is hereby requested. PTO-2038 authorizing credit card payment for the amount of \$980 is enclosed for the prescribed Large Entity three-month extension fee.

Wherefore, consideration and allowance of the claims as amended is respectfully requested.

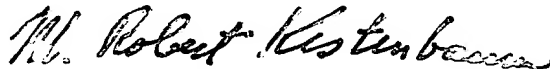
Respectfully submitted,



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I hereby certify under 37 CFR §1.8(a) that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage on the date indicated below and is addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on February 7, 2005.



M. Robert Kestenbaum



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**Pos
Wai
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Ab I**
 Bes

EINKAUFEN:

- ★ **Bärlauch, Pesto, iBi**
 - Bärlauch
 - Frischkräuter-Gourmet-Saucen
 - iBi-Brottaufstriche
 - Pesto
- ★ **Gemüse, Obst, Abos**
 - Frische-Bestellschein
 - Frische-Kisten
 - Gemüse- und Obst-Abos
 - Kräuter
- ★ **Brottheke**
 - Brot-Abos
 - Brötchen
 - **Dinkelbrote**
 - Helle Brote
 - Roggenbrote
 - **Vollkornbrote**
 - **Spessart-Bauernbrote**
- ★ **Hin zur Natur:**
gesund & günstig
 - Brote, Brötchen
 - Ich bin-Aufstriche
 - Kürbiskerne, Öle
 - Nudeln
 - Saucen, Suppen
 - Schmankerl
 - vegetarische Würste, Ragout
- ★ **Weitere Produkte**
 - Apfel-Chips,
 - Apfel-Produkte
 - DiWi-Würste
 - Feinkost
 - Frischnudeln
 - Fruchttaufstriche
 - Fruchtbrot
 - Frühstück
 - Gebäck
 - Gemüsebrühe
 - Kinder-Lieblinge
 - Kochbuch
 - Kochvideos
 - Kräutertees
 - Lebkuchen
 - Nudeln
 - Obst- und Gemüsesäfte
 - Saison-Produkte
 - **Schnelle Küche**
 - Streuwürze
 - Süßes
 - Tomatensaucen
 - vegetarische Würste, Ragout

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Cholesterinfrei, ohne tierische Zutaten



iBi-Brottaufstriche

Leicht und cremig, vielseitig verwendbar

★ NEU! iBi Aubergine

Der Neue in der Familie 'iBi'

"Ich bin die neue Komposition mit dem Geschmack des Sommers ..."

Mehr



Menge:	<input type="text"/>	bestellen	1x 180g	EUR 3,20
Menge:	<input type="text"/>	bestellen	iBi Aubergine 12x 180g	EUR 34,50

★ Ihr Favorit iBi Bärlauch

Der bärenstarke Aufstrich

"Für meine Fans bin ich der wilde Knoblauch und schmecke vitalisierend nach Frische, Wald und Wiese."

Mehr



Menge:	<input type="text"/>	bestellen	1x 180g	EUR 3,20
Menge:	<input type="text"/>	bestellen	12x 180g	EUR 34,50

★ Ihr Favorit iBi Hot

Manche mögen's heiß

"Milde Peperoni bringen die Würze Mexikos auf Ihren Speiseplan. Trotzdem bin ich nicht zu scharf und bin auch ein hervorragender Dip."

Mehr



Menge:	<input type="text"/>	bestellen	1x 180g	EUR 3,20
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Super-Ange

iBi-Sparkiste
Sie dürfen Ihre zusammenstell
Sorten.



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24er iBi-Spa
Wählen Sie 4 S
schon haben Si
Gourmet-Feink



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Gesundheits-



"Ich
fett
cho
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Zut
die wertvollen
ungesättigten
Sonnenblumen